IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

Ins.APP.No. 21 of 2004()

IC.41/2001 of E.I.COURT, KOLLAM
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APPELLANT/OPPOSITE PARTY:

THE REGIONAL DIRECTOR, E.S.I.CORPORATION
THRISSUR.

BY ADV. SRI.T.V.AJAYAKUMAR

RESPONDENTS: APPLICANT:

SRI.K.RADHAKRISHNAN NAIR,
DEPUTY GENERAL MANAGER, KERALA STATE INDUSTRIAL ENTERPRISES LTD., ST.JOSEPH'S PRESS BUILDING, THIRUVANANTHAPURAM.

BY ADV. SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.K.JOHN MATHAI

THIS INSURANCE APPEALS HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR,J

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Ins.Appl.No.21 of 2004

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Dated this the 16th day of November, 2007

JUDGMENT

The appellant claimed contribution for the period from 2.8.2001. The respondent is a Government of Kerala undertaking. There was delay in paying the contribution. So the appellant claimed interest of and damages. Challenging that order the respondent filed I.C.41/2001 before the Insurance Court, Kollam. The Insurance Court found that the action of the Corporation levying interest and damages was not justified. Challenging that order this appeal is filed. The learned counsel appearing for the respondent submits that though there is a finding that the respondent is not liable to pay interest, the respondent had paid entire interest during the pendency of the proceedings before the E.I Court. Learned counsel for the appellant submits that in view of the decision of the E.I Court the respondent is claiming refund of the interest. In view of the principles laid down in **Employees State insurance Corporation v. M/s.Hotel Methanath (Kedaram) (2007(2) KLJ 708)** the view taken by the EI court that the appellant is not entitled to claim interest is unsustainable and the liability of

the respondent to pay interest arises on date on which it fell due. Counsel for the respondent submitted that interest due has already been paid and there is no need to pay it again.

2. The Insurance Court found that the appellant is not liable to pay any damage. In view of the facts and circumstances explained in the judgment I do not find any reason to interfere with the findings of the court below on that point in this particular case. It is submitted by the counsel for the respondent that being a Government owned company it submitted application for exemption from paying contribution and normally in every case Government will examine the case and favourable orders will be passed in the matter of delay in paying contribution. In view of the explanation offered by the respondent company which is a Government owned company I am of the view that it is not appropriate for the appellant to proceed for realisation of damages in this case.

In the result the appeal is allowed in part. The findings of the E.I Court that the respondent is not liable to pay any interest

is set aside but in the facts and circumstances of the case there will be a direction to the appellant not to proceed with recovery of damages.

K.PADMANABHAN NAIR, JUDGE

dvs